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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 08/141,017      | 10/26/1993  | EUGENE P. GOLDBERG   | 4733                | 7268             |

7590                    08/07/2002

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[REDACTED] EXAMINER

WEBMAN, EDWARD J

[REDACTED] ART UNIT      [REDACTED] PAPER NUMBER

1617

DATE MAILED: 08/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
08/141,017Applicant(s)  
GOLDBERGExaminer  
WEBMANGroup Art Unit  
1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

Responsive to communication(s) filed on 12/8/97.

This action is FINAL.

Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

Claim(s) 1 - 7 is/are pending in the application.

Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

Claim(s) \_\_\_\_\_ is/are allowed.

Claim(s) 1,7 is/are rejected.

Claim(s) 2 - 6 is/are objected to.

Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved.

The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

All  Some\*  None of the CERTIFIED copies of the priority documents have been received.

received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892

Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948

Other \_\_\_\_\_

## Office Action Summary

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The election of species requirement is withdrawn.

Prosecution is reopened in view of a finding of new art.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 7 rejected under 35 U.S.C. 102(b) as being anticipated by Pennell et al.

Pennell et al teach a method of protecting intraocular surfaces of an eye with a solution of polyethylene oxide by introducing the solution followed by performing surgery (claim 1). A concentration of up to 1.5 % (column 35 lines 1-20) and a molecular weight of 4 million is specified (column 4 lines 11-15) is disclosed. Topically wetting the eye is specified (claim 9).

Claims 1, 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Soll et al.

Soll et al teach minimizing damage to endothelial and epithelial cells by treatment with chondroitin sulphate prior to surgery (abstract). A molecular weight of 50,000 to 100,000 is disclosed (column 3 lines 8-10). A concentration of 0.5-30% is disclosed

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(column 5 lines 64-66). A protective coating is specified  
(column 5 lines 31-32).

Claims 1, 7 are rejected.

Claims 2-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to E. Webman whose telephone number is 703-308-4432. The examiner can normally be reached on M-F from 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Seidel, can be reached on (703) 308-4725. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1234.

E. Webman

8/4/02

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